



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/027,867	02/23/98	CARRULL	2734-CIP-2

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QM11/0429

EXAMINER
PATTERSON, M

ART UNIT	PAPER NUMBER
3728	

DATE MAILED: 04/29/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/027867

Applicant(s)

Examiner

Patterson

Group Art Unit

3728

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/13/99.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 2, 5, 6, 9-12, 15, 16, and 21 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 2, 5, 6, 9-12, 15, 16, and 21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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Claim Rejections - 35 USC § 112

1. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9 the phrase "said threaded stud" lacks antecedent basis rendering the claim vague and indefinite.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 11, 12, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Softspikes (A Unique Holiday Offer article) in view of Dassler (4,375,728).

Softspikes shows a cleat with a threaded stud and a plurality of peripheral teeth substantially as claimed, except for the peripheral teeth being angled outwardly. Dassler clearly teaches outwardly angling teeth (2-4) of a cleat (1). It would have been obvious to outwardly angle the teeth as taught by Dassler in the cleat of Softspikes to increase cushioning, and to provide traction and skid resistance in all directions.

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4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 11, 12, 15, and 21 above, and further in view of conventional knowledge as evidenced by Gehring or Holmes.

In reference to claim 12, it is well known and conventional to provide "fillets" on threaded members to lock the threaded members in place as evidenced and shown by Gehring or Holmes. It would have been obvious to provide a fillet as is well known and conventional to prevent the cleat from loosening.

5. Claims 2, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 11, 12, 15, and 21 above, and further in view of Kelly or Jordan.

Softspikes as modified above shows a cleat substantially as claimed except for an anti-debris ring. Kelly or Jordan '114 teaches providing an anti-debris ring (24 or 7). It would have been obvious to provide an anti-debris ring as taught by either Kelly or Jordan in the cleat of Softspikes as modified above to prevent debris from getting between the cleat body and the shoe sole.

6. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2, 5 and 9 above, and further in view of either Johnson or Kataoka '913.

Softspikes as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface

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as taught by either Johnson or Kataoka in the cleat of Softspikes as modified above to prevent damage to the turf and to make the teeth safer to participants.

7. Claims 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 11, 12, 15, and 21 above, and further in view of either Johnson or Kataoka '913.

Softspikes as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Softspikes as modified above to prevent damage to the turf and to make the teeth safer to participants.

Response to Arguments

8. Applicant's arguments filed 4/13/99 have been fully considered but they are not persuasive.

In response to applicants' arguments that Dassler is directed to rubber/elastic materials and soles, Dassler clearly suggests the use of "relatively hard and wear resistant" materials for the stud material (column 1 lines 40-45). Dassler also suggests angling the teeth outwardly to increase stability and skid resistance in all directions (column 3 lines 22-25).

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In response to applicants' arguments directed towards Jordan and Kelly, both Jordan and Kelly shows anti debris-rings (7 or 24) which inherently function as applicants' same structure would function.

In response to applicants' request, the references Gehring and Holmes have been cited to show the well known and conventional use of fillets in threaded fasteners.

Terminal Disclaimer

9. The terminal disclaimer filed on 4/13/99 disclaiming the terminal portion of any patent granted on this application is accepted. The terminal disclaimer has been recorded.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ebony Smith at (703)305-3570.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3579. Please identify Examiner ____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.



Marie Patterson
Primary Examiner
Art Unit 3728

MDP
April 26, 1999